

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION**

| | |
|---------------------|--------------------------------------|
| LARRY FITZPATRICK, |) Case No.: 2:07-CV-528 |
| |) |
| Plaintiff, |) CITY OF MONTGOMERY'S MOTION |
| |) FOR SUMMARY JUDGMENT |
| vs. |) |
| |) |
| CITY OF MONTGOMERY, |) |
| |) |
| Defendant |) |

COMES NOW the defendant City of Montgomery, by and through undersigned counsel, pursuant to Rule 56 of the Federal Rules of Civil Procedure, and moves this Honorable Court to enter summary judgment in favor of the City of Montgomery, based on the facts and grounds set forth in the Brief in Support of the Motion for Summary Judgment filed contemporaneously herewith.

Defendants submit, pursuant to the law, that there are no genuine issues as to any material facts, and that they are entitled to a judgment as a matter of law. Defendants further submit that Plaintiff has failed to present evidence in support of some elements of their case on which they bear the ultimate burden of proof.

In support of the Motion for Summary Judgment, the defendants submit the following:

1. Defendant's Answer (Doc. No. 4)
2. Defendant's Memorandum of Law in Support of Defendants' Motion for Summary

Judgment with Exhibit.

To the extent allowable by the Court, Defendant reserves the right to supplement this motion.

Respectfully submitted,

/s/ Wallace D. Mills
Wallace D. Mills (MIL 090)
Attorney for City of Montgomery

OF COUNSEL:

City of Montgomery Attorney's Office
103 North Perry St., Rm. 200
Montgomery, AL 36104
(334) 241-2050

CERTIFICATE OF SERVICE

I hereby certify that on the 2nd day of April, 2008, I electronically filed the foregoing with the Clerk of the court using the CM/ECF system which will send notification of such filing to the following parties or counsel:

Joseph Charles Guillot, Esq.
McPhillips Shinbaum LLP
P.O. Box 64
Montgomery, AL 36101-0064

and I hereby certify that I have also mailed by United States Postal Service the document to the above-named non-CM/ECF participants:

/s/ Wallace D. Mills
OF COUNSEL